

capabilities that are practically available today. Thus, AT&T, as is MCI WorldCom and others, is depending on UNE-P to bring competition to the New York residential marketplace and BA-NY will be the monopoly provider of critical wholesale services essential to AT&T's marketplace success or failure with residential consumers. Indeed, BA-NY's performance as AT&T's principal supplier will have a critical, and potentially decisive, impact on AT&T's ability to serve residential consumers throughout New York State.

14. Competition for local services is only now beginning to take root in New York, especially in the residential marketplace. Only a handful of residential consumers, certainly fewer than 5% of the more than 7 million residential lines served by BA-NY, currently use a local service provider other than BA-NY.

15. It is crucial that new competitors be able to provide those consumers with high quality service -- service that is at least as good as they can obtain from BA-NY. Otherwise, consumers will have little or no reason, and virtually no inclination, to switch away from the incumbent's service.

16. Indeed, AT&T and other CLECs will be put to the test by sophisticated New York consumers. If they do not get the service they expect from AT&T, even though the underlying

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service is provided through the use of BA-NY's UNEs, they will blame AT&T for it. Thus, I do not anticipate they will choose or stay with AT&T's local service if they receive poorer service quality than they can receive from BA-NY, regardless of the actual cause.

17. Most significantly, since AT&T's research shows that customers are increasingly attracted to bundled service offers that include both local and long distance, customers who do not choose AT&T's local service may also take their long distance business elsewhere.

18. This is especially critical given the fact that once BA-NY is permitted to provide long distance service in New York, it will have access to mature, fully automated systems which will enable it immediately to provide customers with its bundled LD/Local offer in virtually unlimited volumes. These systems, which are tested and have been operational for over a decade, have allowed tens of millions of customers to change their long distance carriers each year nationwide, including the millions of PIC changes that occur in New York alone. Unless BA-NY's systems can provide comparably equal quality to competitive local carriers in the bundled local and long distance marketplace, BA-NY will have an insurmountable advantage over new entrants.

19. It is also critical to recognize that AT&T's current principal competitor, MCI WorldCom, has announced that it expects to be sending BA-NY up to 5,000-6,000 UNE-P orders per day, as soon as it can operationalize the EDI preordering interface to obtain customer service records and address validation over that system. Accounting for the demand of AT&T, MCI WorldCom and other users of BA-NY's UNE-P related ordering systems, I expect that in a mature, fully competitive marketplace these systems will need to be able to process at least 300,000 orders per month, at least triple their current claimed usage.

20. This rapid ramp-up -- by AT&T, MCI WorldCom and likely by others -- is driven by the economics of this industry. Residential telecommunications is the archetypal mass market. It is a high fixed-cost, low unit revenue business. Therefore, long-term survival requires serving large volumes of customers at the lowest possible unit cost. No carrier building systems to accommodate mass-market volumes can afford to delay in reaching for volumes to fill -- and pay for -- those systems. Thus, it is not surprising that, once a carrier has made these investments (as AT&T, and apparently MCI WorldCom, have done) the necessary commercial objective is to ramp up to maximum commercial volumes as rapidly as CLEC systems -- and BA-NY's

systems -- permit. If Bell Atlantic's operations support systems are unable to process the level of orders that are commercially necessary - and they can not - AT&T will not be able to compete with Bell Atlantic.

21. Thus, I can strongly affirm, from a marketer's perspective, the critical importance of the nondiscrimination requirements in the Act. Because Bell Atlantic is not today providing new entrants with services and operational support that are remotely equal in quality to those Bell Atlantic provides to itself, AT&T will be irreparably harmed by Bell Atlantic's entry into the long distance market in New York at this juncture. In particular, AT&T will suffer irreparable harm to its reputation and brand - to say nothing of the added costs that AT&T is facing today because of Bell Atlantic's discriminatory conduct - from Bell Atlantic's failure to provide nondiscriminatory access to its elements at a time when Bell Atlantic is permitted to provide a one-stop bundled long distance and local services offer.

22. For example, with long-distance approval, Bell Atlantic will be able to enter the interLATA market quickly and switch customers to its long-distance service using a simple, virtually instantaneous PIC change process that has been refined and streamlined for many years. Bell Atlantic's OSS also give

it real-time access to the information, highly automated processes, and high flow-through capability that it needs and relies upon to provide high quality service to customers.

23. These same capabilities will enable Bell Atlantic to offer quality service, at a competitive price, in the local exchange market. In recent advertisements (attached), Bell Atlantic has emphasized its experience in providing local exchange service and stated, "No one delivers phone service better than Bell Atlantic." Because it has total control over the access to OSS that it provides to CLECs, Bell Atlantic has the power and is poised to make its boast a reality.

24. For example, as AT&T showed in its affidavits, Bell Atlantic has consistently failed to provide AT&T with the timely and complete status notices (acknowledgments, confirmation notices, rejection notices, and completion notices) that AT&T needs in order to provide quality customer service. Such inadequate performance severely impairs AT&T's ability to respond promptly to customer inquiries about the status of their order -- an ability that any CLEC must have in order to attract and retain customers.

25. Similarly, in the past few weeks, AT&T has been subjected to numerous outages in Bell Atlantic's pre-ordering systems. Critically, those outages have been increasing as AT&T

has substantially increased its order volumes. This not only increases AT&T's costs, but also reduces AT&T's ability to provide customers with timely service conversions.

26. Another reflection of Bell Atlantic's failure to provide nondiscriminatory access to OSS is the thousands and thousands of "missing," overdue orders -- i.e., orders which Bell Atlantic never acknowledged receiving, never confirmed or rejected, and for which it never issued a completion notice. As AT&T has elsewhere described in detail, these missing orders significantly increase AT&T's costs and wreak incalculable harm to AT&T's brand name and reputation for quality service. Bell Atlantic effectively leaves AT&T's customer representatives with no information about the pending orders to use in responding to customer inquiries - a fact which, in the eyes of the customers, reflects poorly on AT&T rather than on Bell Atlantic. The reputational damage that these problems cause will increase exponentially as AT&T submits increasing volumes of UNE-P orders, placing AT&T in the untenable position of having to choose between losing its customers to Bell Atlantic or its reputation as a high-quality service provider, and possibly losing both.

B. Irreparable Harm in New York's Small And Mid-Sized Business Market

27. The local market for business customers is significantly different from the local market for residential customers. Business customers require a broader range of products, services and features than residential customers. And, even more than residential customers, they are critically sensitive to both price and quality considerations. Telephone service is critically important to the success of many small and medium-size businesses, and any disruption or threat to that service is a matter of utmost concern to them. For example, the directory listing of a business can be of critical importance to the entity's sales and growth. And losing all service for a few days is not merely inconvenient; it can effectively cut off the customer's ability to conduct its own business. Accordingly, to compete effectively in the New York market for business services, it is essential that AT&T offer the broadest range of products at the highest quality of service -- particularly in terms of reliability -- at a competitive price.

28. As noted above, my responsibilities cover small and medium sized businesses spending up to \$1,000 a month for telephone service. The majority of these firms use basic plain old telephone service ("POTS") or variations such as Centrex.

Increasingly, however, with the development of e-commerce, telephony has become more important, even to the smallest business, and these firms are acquiring second, third and fourth lines. They are also using telephones in new ways, including faxes, e-mail and the Internet, and they are increasingly interested in higher capacity services such as ISDN and xDSL. Moreover, new services making innovative uses of unbundled loops are growing rapidly.

29. AT&T estimates that there are more than 3.2 million telephone lines in BA-NY territory used by small to mid-sized businesses, and that this market is growing at approximately 5-6% per year, i.e., adding roughly 150,000 to 200,000 lines a year. Thus, this market segment in New York alone represents a greater number of lines than the total number of lines in a large number of states.

30. BA-NY's application reported that it has provisioned only 44,000 unbundled local loops (not associated with UNE Platform orders) since it first began to offer them a few years ago. BA-NY also reports that, for the first 8 months of 1999, it provisioned approximately 17,000 unbundled loops, including new loops and hot cuts, an average of about 2,000 lines per month. Thus, if my figures above are correct, BA-NY's monthly

growth in this market segment far outstrips the numbers of unbundled loops that BA-NY is provisioning for its competitors.

31. AT&T's primary approach to serving New York's small and mid-sized business customers is to use BA-NY loops that are connected to AT&T facilities at collocated cages in various locations throughout New York. BA-NY technicians perform the complex tasks required to transfer the customer's circuit or loop from BA-NY's switch to the AT&T cage. Because this process typically requires the physical disconnection and reconnection of an active telephone line, the industry refers to this process as a "hot cut." AT&T refers generally to this architectural arrangement for competing in the business market as "UNE-L" because a central, critical component of the arrangement is the unbundled local loop that AT&T must obtain from BA-NY.

32. Given the numbers discussed above, BA-NY's application referred to "hot cuts" as "one small subset of loops." This is a correct statement, but only because BA-NY is not yet capable of handling the volume of unbundled loop orders needed to support a fully competitive marketplace.

33. Hot cuts are, in fact, critical to the prospect for any facilities-based competition for the small to mid-sized business market. AT&T, for example, has no other method for

competing in this very substantial and significant market. The primary reason that hot cuts have been such a small proportion of the loop market is because BA-NY has failed to develop and implement provisioning processes that are robust and accurate enough to enable CLECs such as AT&T to open up our marketing channels and serve this market at commercial volumes. No serious inroads into BA-NY's virtual monopoly of the small to mid-sized business market will ever occur if BA-NY cannot substantially improve upon the current rate that it is provisioning hot cut orders. And BA-NY cannot do that until it significantly improves its processes for performing coordinated hot cuts.

34. AT&T intends to be a significant competitor in this market, providing local service in conjunction with toll and other services, through the use of unbundled BA-NY loops in conjunction with AT&T's own switches. In fact, AT&T has made enormous investments to accomplish this objective. Most obviously, AT&T spent \$11 billion to acquire TCG, principally to enable it to compete in local markets for business services, especially in New York. In addition, AT&T already has 10 local switches and a significant number of fully activated collocated cages in New York. This investment is clear proof of AT&T's

commitment to compete aggressively throughout New York state in the small to mid-sized business market.

35. The fundamental driving force behind AT&T's business plans and business prospects is its enormous fixed cost commitment, along with the monthly costs to operate collocations. In order to compete and to survive in this market, AT&T must find a way of provisioning service that does two things: (1) brings incremental costs down below the revenues that will be generated in a fiercely competitive market that includes BA-NY; and (2) enables AT&T to ramp up to commercial volumes at the fastest possible pace. My primary business imperative is to generate revenue streams that will quickly allow AT&T to begin to recover its investment.

36. To even begin to achieve that objective, AT&T must move from its current provisioning rate of a relatively few UNE-L lines per month, to a widespread commercial offering of service to a broad base of business customers.

37. Critically, AT&T's principal risks in achieving its necessary business objectives are not associated with sales. My business unit has fully developed plans for approaching a variety of customer groups through a direct sales force, and we believe that our offering of a variety of products will be attractive to this market. However, the direct sales channel

cannot be easily turned on and off, based upon whether or not BA-NY performs hot cuts properly. In addition, many of the larger customers in my business segment have significant long distance revenues. Our experience has been that AT&T customers who try to switch their local service to AT&T and have a bad provisioning experience not only leave AT&T's local service, they also take their long distance business with them.

38. As a result, while we have the resources to market to -- and attract -- the volumes of customers that would keep our business viable, we cannot fully engage those resources until we are reasonably confident that our customers will be provisioned properly. AT&T's expansion plans for this market, therefore, are tied fundamentally to BA-NY's ability to provision unbundled local loops quickly, reliably and in commercial volumes.

39. The provisioning of UNE loops is fundamentally different from the provisioning of UNE-P orders. Properly operated, the UNE-P business is (or should be) virtually all electronic. In contrast, the UNE-L business is always heavily manual.

40. In general, hot cut provisioning involves two processes:

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(1) manual transfer of the customer's physical loop, disconnecting it from the BA-NY switch and reconnecting it to an AT&T facility that carries the signal to an AT&T switch; and

(2) coordinated switch software changes on the BA-NY switch and the AT&T switch, and at the Number Portability Accounts Center, which handles the porting of telephone numbers. These software changes arrange for number portability, i.e., routing of inbound calls to the customer based upon its existing telephone number, which permits the customer to retain its existing telephone number.

If the various steps of the hot cut process are not completed in a coordinated manner between BA-NY and AT&T, the customer's service is disrupted. This can take several forms, including total loss of the customer's dial tone (which totally eliminates the customer's ability to make or receive calls) or the loss of the customer's ability to receive some or all inbound calls. In all of these cases, business customers are profoundly affected and place the responsibility for such outages on the CLEC. In addition, BA-NY has created processes to transfer directory listings of hot cut customers in its DA database. If that process does not work flawlessly - and too often it does not - CLEC customers lose their directory listings for days or longer.

41. The reality is that BA-NY does not have commercially viable processes and systems in place that would permit AT&T (or any other CLEC) to compete on an equal footing against BA-NY in the market for small and mid-sized business customers. The situation will irreparably harm AT&T if BA-NY is permitted to

offer bundled local and long distance service while AT&T's market entry is limited by BA-NY's inadequate hot cut provisioning.

42. Today, Bell Atlantic's hot cut provisioning discriminates against AT&T in three significant ways. First, Bell Atlantic consistently puts a significant number of new AT&T UNE-L customers out of service for substantial periods of several hours to more than two days when it cuts over the customer's loop. AT&T's data show that this happens for 1 out of every 10 new customers; the New York PSC estimates that Bell Atlantic puts about 1 out of 20 new customers out of service. Either way, the competitive impact is very significant. Bell Atlantic conceded that half of these outages last one day and that one-fourth last for two days, and AT&T's data shows outages of longer duration. Second, Bell Atlantic consistently drops the directory listing of at least 10 percent of AT&T's new customers out of its directory listings database. Third, Bell Atlantic fails to provision new loops on the due date for at least 1 out of 10 customers.

43. Each of these service failures is commercially intolerable. Collectively, they represent an enormous obstacle to equal competition for small- and medium-sized business customers. These customers typically are highly dependent on

their phone service each day for attracting and serving their customers. Imposing on them a significant risk that, by switching to a new local carrier, they may lose their directory listing or, worse still, lose service altogether for several hours and possibly a day or more, is reason enough for many of them not to change carriers. Indeed, a study submitted in the record by the Competition Policy Institute and cited by the Department of Justice concluded that "the strongest impediment to switching [local carriers] comes from concern about service interruptions during change over." DOJ Eval. p. 18 n. 39. In sharp contrast, customers who retain Bell Atlantic local service and switch to Bell Atlantic's long distance service face none of these significant problems.

44. Similarly, AT&T cannot afford to sacrifice its reputation as a provider of the highest quality of telecommunications service by rapidly expanding its service to these customers when Bell Atlantic is unable to provide reliable and consistent loop provisioning. The simple fact is that, even when Bell Atlantic is the source of the provisioning problem, the customer is going to blame the new carrier. Moreover, in attempting to minimize the impact of Bell Atlantic's discriminatory treatment for even the small volume of customers that AT&T is serving today, AT&T is incurring substantial costs

that further undercut its ability to compete with Bell Atlantic for small- to medium- sized business customers.

C. AT&T Will Be Irreparably Harmed by Bell Atlantic's Discriminatory Loop And Switch Rates.

45. As AT&T has previously explained in detail, Bell Atlantic's rates for its local loop and switching element do not satisfy the TELRIC standard that the Commission adopted to satisfy the requirements of Sections 251(c) and 252(d) of the Act. These prices thus exceed the economic costs that Bell Atlantic incurs when it offers its own competing services and similarly exceed the prices that would prevail in a competitive local exchange facilities market. By contrast, Bell Atlantic can obtain the long distance facilities that it resells to its long distance customers at competitively set wholesale rates from any one of many long distance carriers. In consequence, AT&T and other purchasers of the loop and switching elements will be threatened with irreparable harm when they compete with either the local service offerings of Bell Atlantic or the "one stop shopping" packages of local and long distance services. In particular, Bell Atlantic can subject them to price squeezes and will, in all events, enjoy the benefits of a price umbrella that allows it to enjoy other artificial advantages in the markets for these services. The effect will be that Bell Atlantic will

be able to attract customers for reasons having nothing to do with efficiency and that the offerings of AT&T and other carriers will be less effective, causing both a loss of revenues to AT&T and harm to its reputation.

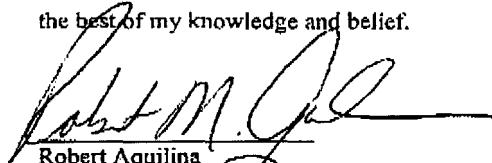
D. AT&T Will Be Irreparably Harmed In Connection With the Provision Of Advanced Services.

46. Approval of Bell Atlantic's application will also cause AT&T irreparable harm in competing for customers who require advanced data services. Bell Atlantic has already been aggressively marketing its advanced services products, and the high and growing demand for advanced services means that "an ability to offer high-speed Internet access will soon be a crucial requirement for all major carriers." DOJ Eval. at 23 & n.53.

47. Offering advanced data services to business and residential customers is important to AT&T's business plans in New York, and AT&T is currently conducting a trial of such services in conjunction with another carrier. AT&T's ability to compete for customers who desire advanced services is hindered, however, by Bell Atlantic's inability and failure to provide CLECs with nondiscriminatory access to the requisite facilities and services. For example, as the Justice Department found, Bell Atlantic has not provided CLECs with either the pre-ordering information or the accurate and on-time provisioning they need to compete effectively in this market. DOJ Eval. 25-28.

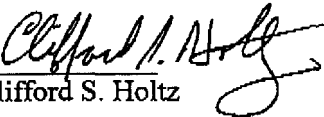
48. Bell Atlantic's mere promise to create a separate, wholly owned subsidiary, without addressing these fundamental inequities in CLEC access to the necessary facilities and services, is no solution. Bell Atlantic will remain uniquely advantaged to offer a bundle of local and long distance services, including advanced services, to New York consumers. This will permit Bell Atlantic to secure and perpetuate indefinitely its dominant position in the market to serve customers who desire advanced data services, and leverage its historic monopoly into the long distance market, causing irreparable harm to AT&T and to competition.

I, Robert Aquilina, hereby declare under penalty of perjury that the foregoing is true and correct to
the best of my knowledge and belief.


Robert Aquilina

December 22, 1999

I, Clifford S. Holtz, hereby declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.


Clifford S. Holtz

December 22, 1999



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330 W 42nd St, New York, NY 10036 (212) 736-2010

PRODUCT Bell Atlantic
MARKET Network
PROGRAM Mariah Carey Special
CODE # 9912-03867
TITLE James Earl Jones Sitting On Stoop

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DATE 12/14/99
TIME 9:43 PM



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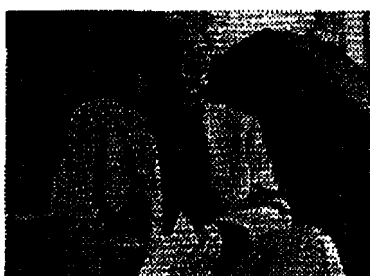
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to convince you to change your
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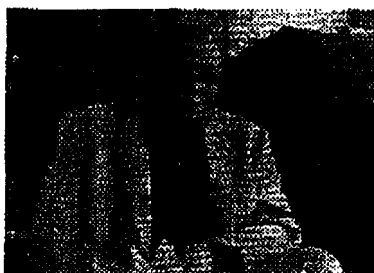
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and switch,



check the bait.



Ask about the fine print. Make
sure



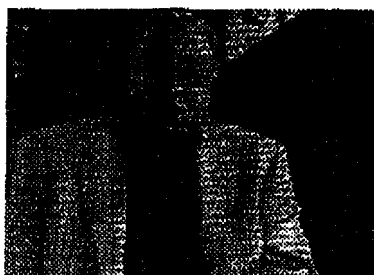
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getting into;



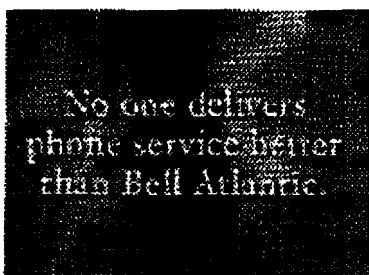
you don't want any surprises.



And remember this:



no one delivers phone service
better



than Bell Atlantic.



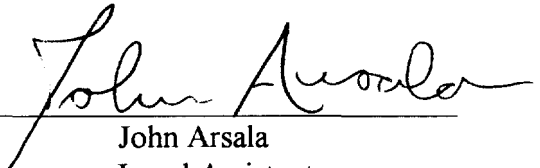
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CERTIFICATE OF SERVICE

I, John Arsala, do hereby certify that I caused one copy of the foregoing Motion of AT&T Corp. for Stay Pending Judicial Review to be served by First Class mail on all parties on the attached service list and served one copy by hand to Bell Atlantic, this 23rd day of December, 1999.



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